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**UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK**

In re:

232 Seigel Development LLC, *et al.*,<sup>1</sup>

Debtor.

Chapter 11

Case No. 20-22844 (RDD)

Jointly Administered

**DECLARATION OF JOSHUA I. DIVACK  
IN SUPPORT OF DISMISSAL OF CHAPTER 11 CASE**

I, Joshua I. Divack, declare that the following is true to the best of knowledge, information and belief:

1. I am a partner at Thompson Coburn Hahn & Hessen LLP, counsel to DB 232 Seigel LLC (“*Senior Lender*”) and DB 232 Seigel Mezz LLC (“*Mezz Lender*”), and together with Senior Lender, the “*Lenders*”). I am familiar with the facts and circumstances set forth herein.

2. I submit this Declaration in accordance with the *Order Conditionally Denying Motion to Dismiss* [ECF 121] (the “*Conditional Dismissal Order*”) entered on July 14, 2021 in connection with the Lenders’ *Motion of DB 232 Seigel LLC and DB 232 Seigel Mezz LLC for an Order Dismissing Chapter 11 Case of 232 Seigel Development LLC* [ECF 104-05] (the “*Motion to*

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<sup>1</sup> The “Debtors” in these chapter 11 cases and the last four digits of each Debtor’s taxpayer identification number are as follows: 232 Seigel Development LLC (0108) (“*Development*”), and 232 Seigel Acquisition LLC (9782) (“*Acquisition*”).

*Dismiss*”) filed on May 10, 2021. This Declaration is also submitted further to the Lenders’ *Objection of DB 232 Seigel LLC and DB 232 Seigel Mezz LLC to Approval of Fourth Amended Disclosure Statement, and Request for Dismissal of Chapter 11 Case* [ECF 153] (the “*Disclosure Statement Objection*”).<sup>2</sup>

3. The Conditional Dismissal Order requires the Debtors to, among other things, (i) file an amended Disclosure Statement by no later than July 16, 2021, and (ii) subject to the Court’s availability, obtain approval of such Disclosure Statement by no later than August 31, 2021. The deadline to obtain approval of the Disclosure Statement was subsequently extended by the Court at the Disclosure Statement Hearing to September 24, 2021.

4. As set forth in the Disclosure Statement Objection, the Debtors have failed to address the objections to their Third Amended Disclosure Statement raised by the Lenders and the issues highlighted by the Court at the September 14, 2021 Disclosure Statement Hearing.

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<sup>2</sup> Capitalized terms used but not otherwise defined herein shall have the meaning ascribed to them in the Disclosure Statement Objection.

5. Accordingly, (a) the Debtors' Fourth Amended Disclosure Statement does not provide "adequate information" as defined in section 1125 of the Bankruptcy Code, and the Debtors' underlying Fourth Amended Plan is unconfirmable on its face, (b) the Debtors have failed to satisfy the condition in the Conditional Dismissal Order (as amended orally by the Court at the Disclosure Statement Hearing) requiring approval of the Disclosure Statement by no later than September 24, 2021, and (c) pursuant to the terms of the Conditional Dismissal Order, the Court should enter the Proposed Order granting the Lenders' Motion to Dismiss.

Dated: September 25, 2021  
New York, New York

By: /s/ Joshua I. Divack  
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